



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

US EPA RECORDS CENTER REGION 5



1002792

OCT 4 1993

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

Messrs. Robert N. Steinwurtzel and  
Jeffery S. Hannapel  
Counsel for Refined Metals Corporation  
Andrews and Kurth  
Suite 200  
1701 Pennsylvania Avenue, NW  
Washington, DC 20006

Dear Messrs. Steinwurtzel and Hannapel:

Thank you for your June 23, 1993 letter, submitted on behalf of Refined Metals Corporation, in response to EPA's proposed denial of Refined Metals' request for a one-year renewal of the case-by-case extension of the effective date of the land disposal restrictions applicable to the storage of lead-bearing materials prior to smelting at the Beech Grove, Indiana facility. You presented several reasons why Refined Metals disagrees with EPA's determination that this extension should not be renewed.

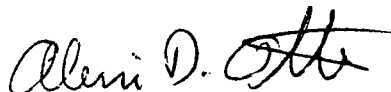
EPA is evaluating the concerns expressed by Refined Metals and seeks clarification of Refined Metals' intent regarding the storage of wastes for less than 90 days as stated in the last sentence of the paragraph at the top of page 2 of your letter, i.e., "Citing alleged loss of interim status as the basis for denying the extension renewal is inappropriate and unwarranted, particularly since storage units that are retrofitted to comply with the applicable containment building regulations would not require a RCRA permit, provided that wastes are stored for less than 90 days". Specifically, is Refined Metals committing that it will store its lead-bearing wastes in containers that comply with the 90 day storage provisions, as allowed under 40 CFR § 262.34, during the requested extension period, and that wastes will not be stored for more than 90 days? If so, please provide specific details on the storage area/unit(s) to be used and describe the management of these wastes and any residuals. EPA also requests further clarification on whether Refined Metals intends to retrofit the existing structure, that currently houses waste piles that are the subject of on-going consent decree negotiations, or if some other unit at the facility is to be retrofitted to comply with the containment building regulations.



Recycled/Recyclable  
Printed with Soy/Canoia Ink on paper that  
contains at least 50% recycled fiber

Please contact myself or Mr. William Kline of my staff at (703) 308-8480 and (703) 341-3631, respectively, if you have any questions on this matter.

Sincerely,



Alessi D. Otte, Chief  
Analysis and Land Disposal  
Restrictions Section  
Capacity Programs Branch

cc: George Wyeth, OGC  
Les Otte, WMD  
William Kline, WMD  
Jim Michael, PSPD  
Ken Gigliello, OWPE  
Jonathan Adenuga, Region 5  
Rob Hoelscher, Region 5  
Tom Jacobs, Region 5  
Paula Bansch, IDEM  
Jim Gross, IDEM  
T.W. Freudiger, Refined Metals Corporation



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*Tammy 7/10/90*

**RECEIVED**  
OCT 11 1991

105 South Meridian Street  
P.O. Box 6015  
Indianapolis 46206-6015  
Telephone 317/232-8603

**RCRA PERMITTING BRANCH  
OR/WMD  
EPA REGION 77**

October 8, 1991

Mr. Ron Widner  
Refined Metals  
P.O. Box 188  
Beech Grove, IN 46107

Re: Furnace Slag  
Secondary Lead Smelter

Dear Mr. Widner:

This is in response to our telephone conversation of October 2, 1991, regarding the disposal of slag generated from secondary lead smelting.

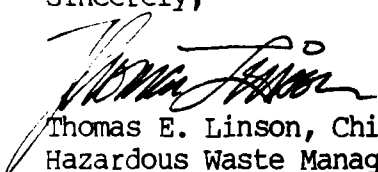
It is the position of this Branch that the slag at your facility is a listed hazardous waste (K069). This is due to the thermal recovery process practiced by Refined Metals with their emission control dust/sludge.

Even though the slag still carries the K069 listing of a hazardous waste, it may be land disposed in a permitted hazardous waste landfill. The land disposal restrictions allow for the disposal of waste that has already been treated by thermal recovery.

Please be advised that Indiana has not yet finally adopted the land disposal restriction requirements. As such, the United States Environmental Protection Agency retains regulatory authority on this issue. It is my understanding that you have already discussed this issue with them.

If you have further questions regarding this matter, please contact me at 317/232-3292.

Sincerely,

  
Thomas E. Linson, Chief  
Hazardous Waste Management Branch  
Solid and Hazardous Waste Management

TEL/kaw

cc: Mr. Hak Cho, U.S. EPA, Region V ✓

ANDREWS & KURTH  
ATTORNEYS  
1701 PENNSYLVANIA AVENUE, N.W.  
SUITE 200  
WASHINGTON, D.C. 20006

OTHER OFFICES:  
HOUSTON  
DALLAS  
LOS ANGELES

TELEPHONE: (202) 662-2700  
TELECOPIER: (202) 662-2739  
TELEX: 79-1208

April 29, 1991

Mr. Jonathon Adenuga  
Hazardous Waste Branch  
United States Environmental  
Protection Agency, Region V  
RCRA Enforcement Branch  
230 South Dearborn Street  
Chicago, Illinois 60604

Re: Disposal of Fixated Blast Furnace Slag

Dear Mr. Adenuga:

On behalf of Refined Metals Corporation (the Company), we are writing with respect to the regulatory status of certain materials handled by Refined Metals. The Company operates a battery recycling facility that recovers lead from a variety of materials. One by-product of the recycling process is flue dust, which is residual lead-bearing dust captured by the baghouse system and recycled through the blast furnace. The flue dust is regulated by EPA as K069. Lead is tapped from the blast furnace into molds, and the waste product of the blast furnace (slag) is captured separately. A question has arisen as to the appropriate regulatory status of blast furnace slag.

Last year, the Company began experimenting with a system to fixate waste slag to render it non-hazardous in accordance with the land disposal restrictions promulgated by EPA. Under this system, the slag is ground to less than 3/8 inches in diameter and mixed with cement and a fixing agent. In anticipation of completing this process, the Company made application to the Indiana Department of Environmental Management (IDEM) for approval to dispose of fixated blast furnace slag as a special waste. The request was denied based on IDEM's determination that because flue dust is recycled through the blast furnace, the slag generated as a by-product of this process would be considered the listed hazardous waste K069, pursuant to the so-called "derived-from" rule. IDEM reached this conclusion even though the fixated slag does not exhibit one or more characteristics of hazardous waste. In discussions with IDEM, we have been informed that the determination is based on communications received from EPA, Region V.

We contend that this application of the derived-from rule produces an unintended result, for several reasons. First, the fixated material does not exhibit a characteristic of hazardous waste. Second, the Company will be required to render the material non-hazardous prior to disposal under the newly promulgated land disposal treatment standards. Those standards require that K069 waste be recycled, while D008 waste such as slag need only be treated to the characteristic level (5.0

Mr. Jonathon Adenuga  
April 29, 1991  
Page 2


mg/l) prior to land disposal. A policy which withholds authority to dispose of a D008 waste after fixation is inconsistent with the objectives of EPA's Land Disposal Ban. Under IDEM's approach, there was no need for EPA to promulgate a treatment standard for slag under the Land Disposal Ban, since it must be recycled. In fact, officials at EPA national headquarters have characterized the position which IDEM is now taking as an "unintended result."

Arguably, flue dust which is recycled at the same facility that generates it is not even a waste and, therefore, should not be regulated as a hazardous waste. Federal case law supports this contention. In American Mining Congress v. EPA, 824 F.2d 1177 (D.C. Cir. 1987), the court held that materials that are recycled and reused in an ongoing manufacturing or industrial process are not solid wastes for regulatory purposes because these materials "have not yet become part of the waste disposal problem; rather they are destined for beneficial reuse or recycling in a continuous process by the generating facility itself." *Id.* at 1186. Under this analysis, the derived-from rule is inapplicable to the Company's slag because there is no listed hazardous waste introduced to the process.

Under a strict application of the derived-from rule, Refined Metals would be forced to continuously recycle 100% of its blast furnace slag. Such a result is infeasible and puts the Company at a distinct competitive disadvantage with other secondary lead smelters which are currently disposing of their slag. Should Refined Metals be forced to recycle all of its slag, the Company could not continue to operate. Refined Metals needs to resolve this matter immediately and would appreciate your input. We request that this matter be addressed by conference call as soon as possible. We will contact your office to arrange for the conference call.

On behalf of Refined Metals, we appreciate your attention to this matter.

Sincerely,



Robert N. Steinwurtzel  
David F. Freudiger

cc: Mr. Joseph M. Boyle  
Mr. T. W. Freudiger  
Mr. Dennis Zawodni

O: WMD  
CC: BECK  
RA RF

FILE

ENVIRONMENTAL  
PROTECTION AGENCY  
RECEIVED  
ANDREWS & KURTH  
L.L.P.

OTHER OFFICES:  
HOUSTON  
DALLAS  
LOS ANGELES  
NEW YORK

'93 FEB 23 P2:59

1701 PENNSYLVANIA AVENUE, N.W.  
SUITE 200  
WASHINGTON, D.C. 20006

TELEPHONE: (202) 662-2700  
TELECOPIER: (202) 662-2739  
TELEX: 79-1208

OFFICE OF THE  
REGIONAL ADMINISTRATOR

RECEIVED

FEB 24 1993

February 17, 1993

Via Certified Mail

OFFICE OF RCRA  
Waste Management Division  
U.S. EPA, REGION V

Mr. Valdas V. Adamkus  
Regional Administrator  
U.S. Environmental Protection Agency  
77 West Jackson Boulevard  
Chicago, Illinois 60604

Re: Application for Variance from Secondary Containment  
Requirements for Containment Building Units  
Refined Metals Corporation - Beech Grove, Indiana

Dear Mr. Adamkus:

On August 18, 1992, EPA promulgated final regulations for containment building units under the Resource Conservation and Recovery Act ("RCRA"). 57 Fed. Reg. 37194 (1992). These regulations created a new waste management unit whereby hazardous waste could be treated or stored without being considered land disposal. Refined Metals Corporation ("Refined Metals" or "the Company") hereby submits this application for a two-year variance from the secondary containment requirements of the containment building regulations for the raw materials storage units at its lead recycling facility in Beech Grove, Indiana.

The final regulations for containment buildings provide that EPA may delay the secondary containment requirements for existing units being converted into containment building units, provided that the owner or operator of the facility demonstrates that the units substantially comply with the applicable containment building requirements. Accordingly, facilities with existing hazardous waste units that satisfy the applicable containment building requirements may apply to the Regional Administrator by February 18, 1993 for a two-year variance from the secondary containment requirements for containment building units. 40 C.F.R. §264.1101(b)(4) (as promulgated at 57 Fed. Reg. 37266); see also 57 Fed. Reg. at 37215. To qualify as a containment building under the final regulations, a unit must 1) be a completely enclosed, self-supporting structure; 2) have a primary barrier; 3) have a liquid collection system; 4) have a secondary containment system; and 5) meet the "no visible fugitive emissions" standard. By this application, Refined Metals requests that it be granted a two-year variance for its raw materials storage units.

As part of a submission to EPA officials in Washington, D.C. regarding a case-by-case capacity extension of the effective date of the land disposal restrictions applicable to the storage of lead-bearing raw materials prior to recycling, Refined Metals indicated that the existing raw materials storage units were in compliance

with the applicable containment building requirements, with the exception of the secondary containment requirements. These units are three-walled bins inside an enclosed, self-supporting building. The building has reinforced concrete floors with a protective covering as a primary barrier. Furthermore, the floors are constructed to drain any liquids to a sump for collection and then treatment in the wastewater treatment system. The materials stored in these units are handled in a manner to minimize fugitive emissions within the building. Accordingly, the containment building meets the "no visible fugitive emissions" standard. In addition, the Company also prepared a schedule for the proposed retrofitting of the units with secondary containment. The schedule is enclosed for your convenience and is hereby incorporated in support of this variance request. Accordingly, Refined Metals has demonstrated that its storage units substantially comply with the applicable containment building regulations, and the facility should be granted a two-year variance from the secondary containment requirements for these units.

On behalf of Refined Metals Corporation, thank you for your time and attention regarding this matter. If you have any questions or would like additional information, please contact me.

Sincerely,



Jeffery S. Hannapel  
Counsel for Refined Metals Corporation

JSH/rah  
Enclosures  
cc: Mr. T. W. Freudiger

**Refined Metals Corporation**  
**Schedule for Containment Building Units**

November 1992	Submit case-by-case capacity extension application
February 10, 1993	Submit supplemental information for case-by-case application.
February 18, 1993	Submit application for two-year variance from secondary containment requirements for containment building units.
June 1993	Prepare engineering report on design for proposed modification to retrofit existing storage units to containment building ( <u>i.e.</u> , secondary containment system)
August 1993	Submit permit modification for containment building units to state agency.
July 1994	Approval from state on permit modification.
December 1994	Complete installation of proposed modifications.
February 18, 1995	Compliance with all applicable containment building requirements.





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JUN 3 1993

*Bromer*  
*Rob*  
**RECEIVED**

JUN 8 1993

**OFFICE OF RCRA**  
**WASTE MANAGEMENT**  
**REGION 5**  
SOLID WASTE AND EMERGENCY RESPONSE

Mr. Jeffery S. Hannapel  
Counsel for Refined Metals Corporation  
Andrews and Kurth  
Suite 200  
1701 Pennsylvania Avenue, NW  
Washington, D.C. 20006

Dear Mr. Hannapel:

The Environmental Protection Agency (EPA) has reviewed the information submitted by Refined Metals Corporation (Refined Metals) on November 9, 1992, February 10, and April 6, 1993, in support of its request for a one-year renewal of the case-by-case extension of the land disposal restrictions (LDR) effective date applicable to the storage of lead-bearing materials prior to smelting at the Refined Metals facility in Beech Grove, Indiana. For the reasons discussed below, EPA will propose to deny Refined Metals' request for a renewal of the case-by-case extension.

The Agency granted an extension of the effective date applicable to these materials on June 26, 1992 (57 FR 28628), applicable to all persons managing such wastes. The current extension, which expired on May 8, 1993, was granted to allow owners and operators time to retrofit existing storage units (or build new units) to comply with the containment building standards in 40 CFR Part 264, Subpart DD. As provided in 40 CFR 268.5(e), EPA may renew the original extension for up to one additional year if each of the seven demonstrations required under §268.5(a) still can be made by an applicant on a site specific basis.

As part of its evaluation of Refined Metals' request for a renewal of the current extension, EPA also consulted with staff in EPA Region 5 and the Indiana Department of Environmental Management (IDEM). As you know, a complaint was filed by EPA on November 21, 1990, on the grounds that the building for which the Refined Metals Beech Grove facility is seeking an extension of the CBC lost interim status on November 9, 1985, due to its failure to provide adequate financial assurance per the requirements of Section 3005(e)(2) of RCRA, 42 U.S.C. § 6925 (e)(2). A memorandum stating the basis for the Complaint has

been provided by Mr. Jonathan Adenuga of EPA Region 5. (See Enclosure 1.)

To receive an extension, the applicant must make a number of demonstrations under 40 CFR 268.5(a). 40 CFR 268.5(a)(6) states that the applicant must have arranged for adequate capacity to manage the waste during the extension. Management that does not comply with RCRA requirements does not meet this condition. In addition, noncompliance with RCRA in regard to the management of the waste could result in revocation of the extension; see 40 CFR 268.5(g). Here, the facility in which the waste would be managed is not permitted and does not have interim status, so that the management would violate RCRA.

In addition, the loss of interim status makes Refined Metals' showing deficient under 40 CFR 268.5(a)(5); under this requirement, persons are required to provide a detailed schedule for obtaining the necessary permits as an outline of how and when alternative capacity will be available. The materials submitted to date do not provide this information. In this connection, a detailed explanation of whether permits will be sought for the existing structure, and of what will be done to this structure to bring it into compliance would be required. For similar reasons, the demonstrations under 40 CFR 268.5(a)(1), (2), and (4), have not been made. Enclosure 2 states the agency's detailed analysis of each demonstration. For all these reasons, EPA will propose to deny the application submitted by Refined Metals for a renewal of the current generic extension.

It is our understanding that EPA Region 5 and IDEM have discussed with Refined Metals the possibility of entering into a consent decree in which continued use of the existing structure would be allowed, for at least some wastes, for a period of time to conduct the phased closure of waste piles within the structure. If such a consent decree is entered, any waste management allowed by the consent decree may be relied upon to help make the demonstration of "adequate capacity to manage the waste"; if such an agreement is reached, it may be possible to grant the extension at least in part, if the deficiencies noted herein are cured. However, no final decision has been made as to whether the Agency would grant a renewal of the CBC even if Refined Metals enters into a consent decree with EPA Region 5 and IDEM.

Before making a final determination, EPA is providing Refined Metals with an opportunity to comment on the proposed action. In order for EPA to complete our evaluation of the Refined Metals application in a timely manner, any comments should be sent as soon as possible, but in no event more than 14 days after the receipt of this correspondence. (See Enclosure 3.)

Alternatively, Refined Metals may request that its application be withdrawn at this time, and renew its application at such time when Refined Metals can make all of the required demonstrations. Renewal of the applications would not require resubmittal of information provided to date; only the demonstrations currently found to be deficient need be addressed unless a new unit is proposed.

Please contact Mr. Les Otte or Mr. William Kline of my staff at (703) 308-8480 and (703) 341-3631, respectively, if you have any questions on this matter.

Sincerely,



Sylvia K. Lowrance  
Director  
Office of Solid Waste

Enclosures

cc: George Wyeth, OGC  
Les Otte, WMD  
William J. Kline, WMD  
Jim Michael, PSPD  
Ken Gigliello, OWPE  
Region 5 RCRA Division Director  
Jonathan Adenuga, Region 5  
Rob Hoelscher, Region 5  
Tom Jacobs, Region 5  
Paula Bansch, IDEM  
Jim Gross, IDEM  
Mr. T.W. Freudiger, Refined Metals Corporation



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

ENCLOSURE 1

REPLY TO THE ATTENTION OF:

MAY 06 1993

MEMORANDUM

Subject: U.S. v. Refined Metals

From: Jonathan Adenuga *JA for JA*  
Hydrogeologist

To: William Kline  
Environmental Scientist

The purpose of this memorandum is to explain briefly the position of the United States regarding the regulatory status of Refined Metals Corporation's Beech Grove, Indiana secondary lead smelting facility.

On August 14, 1980, Refined Metals Corporation ("RMC") notified EPA under Section 3010(a) of RCRA that the RMC facility was generating hazardous wastes. On November 17, 1980, RMC submitted its Part A application under Section 3005(a) of RCRA. Thus, under Section 3005(e) of RCRA, RMC attained "interim status" for the waste management units listed in the Part A application, which units the United States alleges contained arsenic, cadmium and lead.

Section 3005(e)(2) requires that a land disposal facility that has been granted interim status loses that interim status on the date twelve months after November 8, 1984, unless the owner or operator files a Part B permit application and certifies compliance with all applicable groundwater monitoring and financial responsibility requirements. RMC failed to certify by November 8, 1985 that it was in compliance with the financial responsibility requirements of the Indiana Hazardous Waste Management Permit Program. 329 IAC 3-22. (Certification of compliance with groundwater monitoring requirements was not applicable for waste piles. 40 CFR § 265.90(a).) Accordingly, on November 9, 1985, RMC lost interim status. Consequently, RMC's continued placement of hazardous waste in the waste piles thereafter violated RCRA.

The United States' case against RMC is based on its disposal of hazardous waste in waste piles without a permit after November 8, 1985. The United States' position is that RMC did not comply

with closure, financial responsibility, and other requirements of the Indiana Hazardous Waste Management Program. The United States seeks closure of the waste piles, corrective action, and payment of a penalty.

## ENCLOSURE 2

### EPA's Evaluation of Refined Metals Demonstrations for a Case-by Case Extension Renewal Under 40 CFR 268.5

1. § 268.5(a)(1): He has made a good-faith effort to locate and contract with treatment, recovery, or disposal facilities nationwide to manage his waste in accordance with the effective date of the applicable restriction established under Subpart C of this part.

Prior to promulgation of the containment building regulations on August 18, 1992 (57 FR 37194), there was not a reasonably available management option for the storage of lead-bearing materials prior to recycling that was consistent with the LDRs. Locating alternative management for these wastes likely would have resulted in the shut-down of this recycling facility, because only on-site storage of the lead-bearing materials can supply the uninterrupted smelter feed that is needed for this recycling process. EPA believes that Refined Metals, upon learning of the requirements for a containment building, as published in the August 18, 1992 Federal Register, has made reasonable efforts to bring its lead-bearing materials storage unit into compliance with the Subpart DD containment building technical requirements. However, the building being retrofitted lacks interim status and is not RCRA permitted. Unless this problem is cured, Refined Metals' effort to develop capacity cannot be considered adequate.

2. Section 268.5 (a)(2): He has entered into a binding contractual commitment to construct or otherwise provide alternative treatment, recovery (e.g., recycling), or disposal capacity that meets the treatment standards specified in Subpart D or, where treatment standards have not been specified, such treatment, recovery, or disposal capacity is protective of human health and the environment.

Refined Metals submitted, on February 10, 1993, a signed statement by Refined Metals Vice President, T.W. Freudiger, committing Refined Metals to provide the necessary secondary containment and to retrofit the existing storage units to comply with the LDRs. Refined Metals subsequently submitted documentation of a contract with H&B Construction Company to install a secondary containment and leak detection system for these storage units. EPA believes, as evidenced by this documentation, that Refined Metals-Beech Grove is fully committed to and pursuing construction of the necessary containment building modifications. Refined Metals also has submitted a certification by a professional engineer that these modifications will be sufficient to meet the design and operating standards set forth in 40 CFR Part 264, Subpart DD. However, even after the contract is carried out, the containment building will lack interim status and is not RCRA permitted. Unless the problem is

cured, the capacity being provided will not meet this requirement.

3. Section 268.5(a)(3): Due to circumstances beyond the applicant's control, such alternative capacity cannot reasonably be made available by the applicable effective date. This demonstration may include a showing that the technical and practical difficulties associated with providing the alternative capacity will result in the capacity not being available by the applicable effective date.

Given the lack of previous storage alternatives, the date of publication of the containment building standards in the Federal Register (August 18, 1992), and the time needed to design, obtain approval, and install the required secondary containment and leak detection system at the existing storage unit, EPA recognizes that alternative capacity cannot be made reasonably available by the May 8, 1993, effective date.

4. Section 268.5(a)(4): The capacity being constructed or otherwise provided by the applicant will be sufficient to manage the entire quantity of waste that is the subject of the application.

Refined Metals processed 25,000 tons of lead-bearing materials in 1992 and anticipates processing only about 12,000 tons of materials in 1993. The existing storage unit that Refined Metals is planning to upgrade to comply with the new containment building regulations is designed and constructed to provide 5745 cubic yards of storage capacity for lead-bearing materials. If Refined Metals processes 1000 tons or 526 cubic yards (assuming 3800 pounds/cubic yard) of lead-bearing materials per month, over ten months of storage capacity will be available for lead-bearing materials. Refined Metals states that it generally stores less than one month of lead-bearing materials. Thus, EPA believes that Refined Metals has demonstrated that the physical capacity of the retrofitted unit will be sufficient to manage the entire quantity of waste subject to the application.

Nevertheless, the capacity upon which Refined Metals is relying cannot be considered for purposes of this demonstration because it is not permitted and lacks interim status. Until Refined Metals provides a plan for obtaining proper RCRA status for the facility, this condition cannot be met.

5. Section 268.5(a)(5): He provides a detailed schedule for obtaining required operating and construction permits or an outline of how and when alternative capacity will be available.

Refined Metals has supplied a schedule for retrofitting its existing storage unit to comply with the containment building regulations. This schedule indicates that Refined Metals intends to finalize the specific design of proposed modifications by June 1993 and will commence with installation of the secondary

containment system as soon as approval is obtained from IDEM. Installation of the secondary containment is expected to be completed by December 1994. Refined Metals intends to be in compliance with the Subpart DD containment building requirements, except for secondary containment, by May 8, 1994. However, the facility is not currently permitted and lacks interim status. Until Refined Metals provides a plan and schedule for curing this problem, this requirement cannot be met.

6. Section 268.5(a)(6): He has arranged for adequate capacity to manage his waste during an extension and has documented in the application the location of all sites at which the waste will be managed.

Refined Metals will continue to store lead-bearing wastes during the period of the extension in piles in the existing storage unit. As discussed above, the existing storage unit that Refined Metals is planning to upgrade to comply with the new containment building regulations is designed and constructed to provide 5745 cubic yards of storage capacity for lead-bearing materials. If Refined Metals processes 1000 tons or 526 cubic yards (assuming 3800 pounds/cubic yard) of lead-bearing materials per month, over ten months of storage capacity will be available for lead-bearing materials. Refined Metals states that it generally stores less than one month of lead-bearing materials. Adequacy of interim capacity has not been shown, however, because the structure is not permitted under RCRA and lacks interim status. Until this defect is cured this requirement cannot be met.

7. Section 268.5(a)(7): Any waste managed in a surface impoundment or landfill during the extension period will meet the requirements of paragraph (h)(2) of this section.

Refined Metals has reported that none of the materials will be stored in a surface impoundment or landfill. As a result, EPA believes that Refined Metals has made this demonstration.



**ENCLOSURE 3**

Refined Metals response should be sent to one of the following addresses:

By regular mail:

Mr. William J. Kline  
U.S. Environmental Protection Agency  
Office of Solid Waste (OS-321-W)  
401 M Street, SW  
Washington, DC 20460

By over-night delivery, etc.:

Mr. William J. Kline  
U.S. Environmental Protection Agency  
Office of Solid Waste (OS-321W)  
Capacity Programs Branch  
2800 Crystal Drive, 7th Floor  
Arlington, VA 22202  
(703) 308-8440



**FILE**  
**INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT**

*We make Indiana a cleaner, healthier place to live*

Evan Bayh  
Governor

Kathy Prosser  
Commissioner

**RECEIVED**  
MAY 15 1992

105 South Meridian Street  
P.O. Box 6015  
Indianapolis, Indiana 46206-6015  
Telephone 317-232-8603  
Environmental Helpline 1-800-451-6027

OFFICE OF RCRA  
Waste Management Division  
U.S. EPA, REGION V

VIA CERTIFIED MAIL - P749-694-945

Mr. William T. Freudiger  
Refined Metals Corporation  
257 West Mallory Avenue  
Memphis, TN 38109

May 13, 1992

Dear Mr. Freudiger:

Re: Part B Permit Application  
Refined Metals Corporation  
Beech Grove, Indiana  
IND 000718130

The Indiana Department of Environmental Management acknowledges receipt of your March 6, 1989 Part B permit application to store hazardous waste at the Beech Grove, Indiana facility. This letter serves as a notice that the review of the aforementioned permit application will not commence until resolution of the following cases:

1. United States vs. Refined Metals Corporation, Civil Action No. IP902077C; and
2. Indiana Department of Environmental Management vs. Refined Metals Corporation, Cause No. N-283.

If you have any questions regarding this matter, please contact Ms. Paula Bansch at 317/232-3243.

Sincerely,

*Victor P. Windle*

Victor P. Windle, Chief  
Plan Review and Permit Section  
Hazardous Waste Management Branch  
Solid and Hazardous Waste Management

pjb

cc: Mr. Hak Cho, U.S. EPA, Region V  
Mr. Thomas Jacobs, U.S. EPA, Region V



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

MAR 24 1992

REPLY TO THE ATTENTION OF:

HRP-8J

Ms. Paula Bansche  
IDEM  
Hazardous Waste Management Branch  
105 S. Meridian St.  
P.O. Box 6015  
Indianapolis, IN 46206-6015

Dear Paula:

Enclosed is the file memo for Refined Metals Corp. to which I referred in our phone conversation. Admittedly, the whole issue is rather confusing, but I sat down and talked to Hak for clarification on the stance of RCRA Permitting.

We **have not** dropped consideration of Refined Metals for permitting purposes. Rather, USEPA has deferred to IDEM the responsibility of determining whether the permit application should be approved or denied. USEPA's decision will follow that reached by IDEM provided that it does not conflict with the USEPA Enforcement action. In short, should IDEM decide not to permit the waste piles, RCRA Permitting would agree to discontinue the permit process until the Enforcement action was settled, at which time RMC might consider submitting an application for **new** container storage. Should IDEM decide to pursue the permit application, USEPA would probably disagree and deny the permit outright because of the LOIS status of the waste piles.

I realize this is all slightly jumbled, but the main point of all this is the loss of interim status for the waste piles, and how that precludes the potential of pursuing the permit application. But, the state must make their determination and notify the facility.

I hope this resolves any questions you have about RMC. Give me a call if you need any additional information. I'll see what I can do.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Robert Hoelscher".

J. Robert Hoelscher

Attachment

FILE MEMO

Date: 3/12/92

Subject: Summary of USEPA meeting about Refined Metals Corp.

Rob Hoelscher and Hak Cho (RCRA Permitting) met with John Adenuga (RCRA Enforcement), Tom Jacobs, and Kathy Garypie (both from ORC) to discuss the permit status of Refined Metals (RMC) pending the current enforcement action. John Adenuga summarized the regulatory status of RMC as follows:

in their original part A application, RMC identified indoor and outdoor waste piles (SO3). Because RMC failed to certify financial assurance for these units, the waste piles were determined LOIS (loss of interim status) on November 9, 1985. USEPA Enforcement notified RMC of their LOIS prior to RMC submission of the Part B permit application. USEPA filed an enforcement action against RMC in November, 1990. Under the enforcement action, RMC was to close any and all waste piles on site, and under a RCRA 3008(h) order, was required to perform corrective action on a facility-wide basis.

The most recent part A application still lists waste piles as the only process code. Although the facility still has interim status because 1) it was existing at the time of submitting their part A application; 2) the part A was submitted on time (November 18, 1980); and 3) the notification (under RCRA 3010) was submitted on time, the units for which they seek to permit do not have interim status.

The facility can submit a new permit application for new container storage units provided that they will not be located in areas undergoing closure, or are subject to closure under the enforcement action. Because the enforcement action is addressing the very units RMC wants to permit, RCRA Permitting will not participate in the permitting process as long as RMC seeks to permit SO3 units. The state must review the permit for adequacy and if deficient can deny the permit. The state has been notified of the decision reached by RCRA Permitting.

The state did review the Part B application (3/89) and found it to be inadequate in a letter dated 4/21/89. If RMC did not respond within 6 months, IDEM may deny the permit.

Lastly, under the enforcement action, the RCRA Enforcement branch will review all Corrective Action plans, RFI Workplans, etc.

MEMORANDUM

Date: February 7, 1992  
To: Jonathon Adenuga, RCRA Enforcement  
From: Rob Hoelscher, RCRA Permitting *RH*  
Subject: Refined Metals

I have compiled some information about Refined Metals following a recent trip to the facility. As you had indicated in our conversations, the site is definitely a prime candidate for corrective action. I am still attempting to clarify or determine the Permitting stance towards the facility, and have drafted a set of statements and comments regarding potential conflicts with Enforcement, and concerns by the Permitting branch.

I submit this to you for comment and would like to use it as a starting point for a meeting between Enforcement and Permitting. I draw your attention specifically to pages 1 and 2, and the final page.

Thanks. Call me at 6-5908 if you have any questions.

attachment

cc: Hak Cho

130-13

SUMMARY OF PERMIT STATUS  
REFINED METALS CORPORATION  
IND 000 718 130

Date of VSI: January 31, 1992  
Weather: Cold (mid 20s) and overcast  
Participants: Paula Bansch, IDEM  
T. W. Freudiger, Refined Metals  
Rob Hoelscher, Region V  
Ron Widener, Refined Metals  
Carol Witt-Smith, Region V

Facility Description

Refined Metals Corporation (RMC) operates a secondary lead smelting and refining facility in Beech Grove, Indiana. Lead alloy ingots are produced by reclaiming lead from lead-acid batteries and other lead-bearing scrap material. The batteries are crushed, and lead plates are separated, mixed with other lead-bearing material, and fed into a blast furnace. Slag, emission control dust, dross skimmings, and other byproducts are stored in indoor waste piles before recycling back into the furnace.

Background

RMC submitted an original part B application for waste piles in the battery storage area (outside) in late 1988. Revised part B and revised part A applications were submitted on March 6, 1989. At this time, the USEPA and IDEM both pursued enforcement actions against RMC for failing to certify financial assurance for the waste piles on site. Currently, the consent order is in the discovery stage. The specifics of the consent order focus on closure of the waste piles on site, and site-wide corrective action. For permitting purposes, the specificity and comprehensiveness of corrective action (what SMWUs are identified, what actions are planned), and the closure of the waste piles (which piles, and details of closure) must be clarified. Furthermore, the permitting status of a facility that has lost interim status under a consent order must be resolved.

The purpose of the VSI was to: 1) clarify the exact nature of the "waste piles" of batteries identified by RMC in the process design portion of their part A permit application; 2) identify SWMUs on site and compare with conclusions reached by Judy Kleiman (Region V) in 1987; 3) determine the current status of operations at the facility. Although waste piles of batteries are specified in the part A, no information was given in the part B regarding the design of the storage unit. Specifically, storage in semi-trailers and on pallets are referenced in the Part B permit application; no mention is made of "waste piles".

Current Status of Refined Metals

The tour began with a discussion about the current status of the facility. Bill Freudiger did most the talking for RMC. As of January 31, 1992, RMC

1) has nearly finished the closure plans for all waste piles in the material storage building (MSB), including construction upgrades to accommodate all stored material at the facility. They will "retrofit" the MSB to store all slag wastes, batteries, etc. The closure plans also address the battery storage area. These plans will be submitted to U.S. EPA RCRA Enforcement in the near future, Bill claimed.

2) would like to secure a new permit that covers the upgraded storage areas in the MSB (following closure of the indoor waste piles) and a portion of the area for which they originally sought to permit. By permitting the outdoor area, they could continue operations during closure/upgrade.

3) had no idea why they classified storage of batteries in the battery storage area as waste piles. Bill maintained (and quite believably) that this storage type applied to all stored batteries--i.e., regardless of the method, all battery storage units were waste piles, even if stored on pallets. According to Bill, RMC has never stored the batteries in actual waste piles.

4) maintain that byproducts were never stored outside.

5) has slapped a concrete slab over most of the active outside areas of the facility. Its been in place for about 3 years, and shows signs of considerable wear. At the time of Judy Kleiman's visit in 1987, crushed gravel covered these areas and lots of gray puddles were present.

6) has voluntarily installed 3-5 groundwater monitoring wells. According to Bill, data from these wells has been submitted to IDEM. Paula Bansch did not know of any data, but will check the files at IDEM. The presence of these wells was not visually confirmed.

7) on May 18, 1989, had requested a variance from IDEM for temporary storage of on-site and off-site battery plates and groups, WWTU sludge from on-site, lead-bearing "hazardous sludges". According to Bill, IDEM never responded. It's not clear why a variance was needed for the latter two materials. They might be exempt if they are to be reclaimed.

8) maintains that they have the workplans, technology, and/or equipment to operate a system to fixate K069 waste at the site.

9) at one time disposed of the slag waste under a "special waste" permit at the Southside Landfill. The permit expired in September, 1990; it is not clear what has become of the slag since then.

10) is (according to the state) a repeat violator of the following state-regulated requirements: a) not maintained an operating record which outlines the location and quantity of hazardous waste on site; b) stored hazardous wastes outside the area approved on the Part A permit application; c) has been operating as a transporter; d) not sought to permit the waste piles in the MSB.

11) has a Part B permit application (v.1, 3/6/89) that does not at all the current operating status of the facility.

### Summary of Visual Inspection

The appearance of the facility on the South and East sides is much improved since the visit by Judy Kleiman in 1987. A sloping inward concrete apron surrounds the buildings on all sides. In the front areas of the facility, the concrete was clean and appeared to be intact. On the South side, a manhole near the product loading dock (photo 3) collects runoff, from which it is pumped into the surface impoundment (Figure 1, photo 1).

On the North and West sides, the exterior areas looked poorly maintained. Considerable lead dust and leaden-looking puddles were present near the back sump adjacent to the material storage building (Figure 11). The manhole appeared to be at a slightly higher elevation than the surrounding area, indicating that considerable standing water must be present before any drainage would occur.

Along the East and Northeast sides of the facility, soils appeared to be natural in color. Lead coating on the soil surface was not discerned. Figure 5 illustrates the degree to which the grade of the storage area has been increased by the concrete slab.

On the West and Southwest sides, some scrap metal was present in the unpaved areas of the site. Soils were natural looking in color, although small isolated piles of smelting byproduct were found (Figure 24). These small piles may be either remnants of former waste piles, or spill material from trucks leaving the site with slag. Track off from trucks was only moderately controlled by a non-draining pit with nozzles (photo 23). The effectiveness of this structure is questionable.

The following list describes the operating and SWMU status of units visited at the site. SWMUs are headed in bold letters.

### Unloading Area

At the time of our visit, batteries were unloaded from semi-trailers directly onto the battery breaker in the battery breaker building. The loading docks in the SE end of the facility (photo 3; also see photo 7 in Judy Kleiman's VSI) were not in use. The concrete in these areas was intact and relatively new looking.

### Battery Storage Area

In their part B application, RMC identified areas on three sides of the facility as the container storage area. During the visit, empty (so claimed Bill Freudiger) semi-trailers were parked along the East side (photo 2) and the back Northeast side (photo 4) of the facility. As part of the closure plans in the consent order, possible contamination of the underlying soils will be evaluated. RMC wants these two areas only to be considered in their permit. In the area to the West of the Breaker building, RMC stores used cardboard boxes in which the batteries were transported (photo 13). Obviously contaminated with lead dust, the boxes are apparently burned in the blast furnace (**A SWMU**).



### **Breaker Building**

Intact batteries received are unloaded directly into the breaker building (photo 7). Batteries are crushed and sorted (photo 8) into lead-bearing material, rubber, and plastic components. Generally, the interior of this building was a mess, with bits of plates and cells strewn about the floor. Some standing liquid (presumably battery acid) drained into a sump (photo 8), pumped into a large tank, from which it was sent to the waste water treatment unit (WWTU). According to Freudiger, the sump is lined with 12" thick exterior of concrete, the interior of which is floored with stainless steel. On the back end of the Breaker building, battery plates and groups are mixed with other lead-bearing material by a tumbler (photo 12). The mixed material is then transferred into the material storage building with a front end loader. (A SWMU)

### **Waste Water Treatment Unit**

Most lead bearing runoff or operation spill liquid is pumped into the WWTU. Primarily, the WWTU consists of two 12,000 gallon neutralization tanks, a flocculation tank, and a settling tank (photo 9). The unit has been running for approximately 3 years. These tanks are housed in a wood-framed building which was not built with any containment structures.

### **Filter Press Building**

WWTU sludge from the settling tank is pumped into the filter press (photo 10) next door. The sludges are pressed, and the resultant cake falls by gravity into several bins below. Loose cake littered the concrete floor, which in many spots was cracked and considerably splintered. The cake is returned to the furnace for lead recovery. (A SWMU)

### **Material Storage Building**

Except for the final lead ingots, all byproducts and "feedstock" are stored in wastepiles in the MSB. Waste piles of dross skimmings (photo 15), mixed material from the tumbler (photo 16), assorted byproducts including baghouse (K069 waste) dust (photo 17), and slag were observed in the MSB. The MSB is basically a pole barn with poor ventilation and lighting, and has no discernable system to drain the standing water on the floor of the building. Leakage was visible out the East side of the building. The building is not rimmed with containment berms. The source of the liquid is unknown, perhaps from dust control, or drippage from the lead plates/groups. At one time, concrete floored the MSB, but it is difficult to determine what underlies it at this time. (A SWMU)

### **Refinery/Smelting Building**

Material from the MSB is transported with a front end loader to the refinery building, where it is temporarily stockpiled before it's loaded into the blast furnace. Considerable residue was present around the blast furnace (photo 20). Also present near the blast furnace was a secondary furnace to treat emission control dust from the interior air filtration system. Once "feedstock" is placed into the blast furnace, molten lead flows out of the

backside of the furnace into the first of a series of refinery pits. Residue is skimmed from the top of the molten lead and stockpiled in the MSB. Blast furnace slag is collected and stored in the MSB. **(SWMUs: blast furnace, temporary storage pile)**

### **Baghouses**

Emission control dust from the blast furnace is collect in the baghouses. These baghouses are relatively new and exhibited minimal leakage. In Judy Kleiman's VSI, the old baghouses were probably leaking. **(A SWMU)**

At the time of the current visit, lead grey puddles and dust were very prevalent on the North side. Near the baghouses was a pile of refractory waste (photo 22) from a former draft afterburner system. The exact origin is unknown, but the material most likely contains lead. The pile was poorly covered with plastic sheeting. **(A SWMU)**

### **Surface Impoundment**

According to Bill Freudiger, rainfall runoff from the East side of the facility is pumped into the surface impoundment. RMC altered this structure some time ago by covering the bottom and sides with plastic sheeting. Solids are settled out in the impoundment. The outflow from the impoundment is a small spillway which feeds into a drainage ditch that runs along the entrance driveway. The discharge is not NPDES permitted. The former bottom material was removed prior to the installation of the plastic. Two problems exist with this structure: the nature of the sediments under the impoundment is unknown, as is the fate of the excavated material; during a heavy storm, the impoundment would release runoff directly into the drainage ditch. It is quite likely that the ditch sediments have elevated lead concentrations. **(A SWMU)**

### **Drainage System**

All surface runoff is either pumped into the surface impoundment or sent to the WWTU. The age and design of the sumps collecting the water are unknown, and documents from RMC (particularly the Part B application) do not provide any enlightenment on these matters. Considering the potentially high concentrations of lead in these runoff waters, characterization of the structures themselves and the surrounding soil is necessary. **(A SWMU)**

## Conclusions

Based on a review of past investigations and documentation, and a recent site visit, the following SWMUs were identified: 1) the battery storage area; 2) the material storage building; 3) the battery breaker building, including the tumbler area; 4) the baghouses; 5) the refractory waste pile; 6) the drainage system; 6) the surface impoundment; 7) the drainage ditch alongside the entrance driveway; 8) the blast furnace; 9) the temporary storage pile in the refinery/smelting building; 10) based on "routine and systematic" airborne releases, the grassy areas on the NE and NW edges of the facility; 11) the filter press building.

## Recommendations

To the extent that the Enforcement Branch is addressing corrective action, at some stage in the regulatory process specific action should be directed towards the SWMUs identified here. The nature and extent of lead contamination should be determined in the soil and sediments under and adjacent to the refinery operations.

## RCRA Permitting/Enforcement Relationship

From a permitting point of view, the following points need to be considered:

- 1) ensure that the enforcement action overlaps or references corrective actions plans outlined in a permit;

- 2) due to the closure plans for the battery storage area and the material storage building, the permitting process cannot proceed until the plans are approved and the areas seeking a permit are identified and ready. The areas undergoing closure are the very areas RMC sought to permit.



FILE  
INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

105 South Meridian Street  
P.O. Box 6015  
Indianapolis 46206-6015  
Telephone 317/232-8603

VIA CERTIFIED MAIL - P404-637-473

June 20, 1991

Mr. T. William Freudiger, Vice President  
Refined Metals Corporation  
P.O. Box 9009  
Memphis, Tennessee 38109

Re: Good Character Requirements  
IC 13-7-10.2  
RCRA Permit  
Refined Metals Corporation  
Beech Grove, Indiana  
IND 000718130

Dear Mr. Freudiger:

On March 20, 1990, the General Assembly of the State of Indiana amended the Environmental Management Act, Indiana Code, Title 13, Article 7 (IC 13-7) to include House Enrolled Act No. 1472. Section 1 added IC 13-7-10.2 as a new chapter, titled Good Character Requirements for Solid Waste Management Board Permits.

Before an application for the issuance, renewal, transfer, or major modification of a permit described in IC 13-7-2-10-1(e) may be granted, the following information in Section A or Section B must be submitted by the applicant.

Section A. A disclosure statement that sets forth the following information:

1. The name, business address, and social security number of the applicant or responsible party. As defined in IC 13-7-10.2, "Responsible Party" means:
  - (a) An officer, a corporation director, or a senior management official of a corporation, partnership, or business association that is an applicant; or
  - (b) An individual, a corporation, a partnership, or a business association that owns, directly or indirectly, at least twenty percent (20%) interest in the applicant.

An Equal Opportunity Employer

130-10

2. A description of the applicant's or responsible party's experience in managing the type of waste that will be managed under the permit.
3. A description of all civil and administrative complaints against the applicant or responsible party for the violation of any state or federal environmental protection law that:
  - (a) have resulted in a fine or penalty of more than ten thousand dollars (\$10,000) within five (5) years before the date of the submission of the application; or
  - (b) allege an act or omission that constitutes a material violation of the state or federal environmental protection law and that presented a substantial endangerment to the public health or the environment.
4. A description of all pending criminal complaints alleging the violation of any state or federal environmental protection law that have been filed against the applicant or responsible party within five (5) years before the date of submission of the application.
5. A description of all judgments of criminal conviction entered against the applicant or responsible party within five (5) years before the date of submission of the application for the violation of any state or federal environmental protection law.
6. A description of all judgments of criminal conviction of a felony constituting a crime of moral turpitude under the laws of any state or the United States that are entered against the applicant or responsible party within five (5) years before the date of submissions of the application.
7. The location of all facilities at which the applicant or responsible party manages the type of waste that would be managed under the permit to which the application refers.

Mr. T. William Freudiger  
Page 3

The disclosure statement must be executed under oath or affirmation and is subject to the penalty for perjury under IC 35-44-2-1.

Section B. In lieu of a disclosure statement, the following information may be submitted:

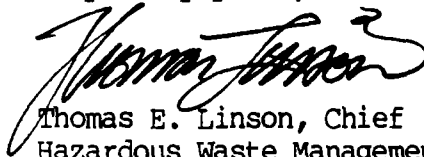
1. The information concerning legal proceedings that is required under section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78a et. seq.) and that the applicant or responsible party has reported under form 10-K;
2. A description of all judgments that have been entered against the applicant or responsible party in a proceeding described in subsection (A)(3) and that have imposed upon the applicant or responsible party a fine or penalty described in subsection (A)(3)(a); and
3. A description of all judgments of conviction entered against the applicant or responsible party within five (5) years before the date of submission of the application for the violation of any state or federal environmental protection law.

Before your application for a RCRA permit can be reviewed, the information required under IC 13-7-10.2 must be submitted. The required information must be received within thirty (30) days of your receipt of this letter.

The Commissioner may deny any application if you fail to submit the required information.

If you have any questions concerning this matter, please call Ms. Paula Bansch at AC 317/232-3243.

Very truly yours,



Thomas E. Linson, Chief  
Hazardous Waste Management Branch  
Solid and Hazardous Waste Management

PJB/go

cc: Mr. Hak Cho, U.S. EPA, Region V

JAN 31 '92 10:27AM KE ENGINEERING

# Refined Metals Corporation

May 18, 1989

Mr. Thomas E. Linson, Chief  
Indiana Department of Environmental Management  
Plan Review and Permit Section  
Hazardous Waste Management Branch  
Solid and Hazardous Waste Management  
P.O. Box 6015  
Indianapolis, IN 46206-6015

Re: Request for Variance  
Refined Metals Corporation  
Beech Grove, Indiana  
EPA Facility Number INDO00718130

Dear Mr. Linson:

As a result of the review of Refined Metals Corporation's Part B Application by the Indiana Department of Environmental Management (IDEM), we are submitting this request for variance for the following: temporary storage of 1) plates and groups (from on-site battery decasing operations and from independent breakers); 2) future wastewater treatment plant sludge from the on-site treatment plant; and 3) purchased lead bearing "hazardous sludges" in the raw material storage building containing the raw material storage pile, and the storage of flux (rerun slag), used in the blast furnace, in the raw material storage bins. A variance is also requested for the transportation of "hazardous sludges" from the container storage area (regulated unit) to the raw material storage building. These variances are requested according to the Rule 320 IAC 4.1-1-8(c) and 320 IAC 4.1-1-9(c) of the Indiana Hazardous Waste Rules and 40 CFR Sections 260.30(c) and 260.31(c).

The raw material storage pile is located in the raw material storage building. The raw material storage building is constructed of an impervious layer of concrete and has exterior walls and roof surrounding the raw material storage pile to eliminate exposure to wind and rain. The raw material storage pile consists of plates and groups from on-site battery decasing operations and independent breakers, battery manufacturers' lead bearing scraps, and "hazardous sludges."

Mr. Thomas E. Linson, Chief  
May 18, 1989  
Page Two

The plates and groups from on-site battery decasing operations are transported from the battery decasing building (roofed, drainage, and siding) to the raw material storage building (roofed, concrete floor, drain, and siding) using a front-end loader. The plates and groups received from independent breakers are transported directly to the raw material storage building. All plates and groups are later fed with other lead bearing material into the furnace for lead recovery. The plates and groups are materials that have been reclaimed, but must be processed further before the reclamation is complete.

Upon completion of the on-site wastewater treatment plant, future sludges generated will be accumulated by the treatment of battery acids, wash down water, and other on-site process water usage. The sludge will be dewatered and temporarily staged in the raw material storage building prior to being fed into the furnace with other lead bearing material for lead recovery. The wastewater treatment plant sludge would not be accumulated speculatively prior to being recovered since all sludges are recyclable. The wastewater treatment plant sludge is material that is exempt from RCRA regulation under 40 CFR 021 §261.2(c)(3). The material is defined as sludge exhibiting characteristics of hazardous waste but is defined as a solid waste then reclaimed.

The rerun slag is stored in the raw material storage building. The bins are constructed of concrete walls. The rerun slag is fed into the furnace with the other lead bearing material for lead recovery. The rerun slag is material that has been partially reclaimed, but must be processed further before recovery is complete.

The "hazardous sludge" is manifested hazardous waste that is stored in the container storage area (regulated unit). The "hazardous sludges" are by-products of the battery manufacturers' operations that are lead bearing material and do not have to be classified as hazardous waste. The battery manufacturers classify this material as hazardous waste for their own protection. The material is stored in the container storage area (regulated unit) before being transported to the raw material storage building for processing. The sludges are transported to the raw material storage building for staging prior to being fed into the furnace. The sludges are processed immediately for lead recovery. The "hazardous sludge" is recyclable material.

The criteria for granting a variance from classification as a hazardous waste for those materials that have been reclaimed, but not completely recovered, are addressed individually below.



Mr. Thomas E. Linson, Chief  
May 18, 1989  
Page Three

- o The degree of processing that the material has undergone and the degree of further processing required.

The most involved process in reclaiming lead from spent lead acid batteries is the battery breaking and component separation process. At Refined Metals, the process begins with sawing the top off the battery. The top is removed and fed to a crusher, while the groups are removed from the case by tumbling. The battery electrolyte is collected and routed to the on-site wastewater treatment plant for subsequent neutralization. The empty case is fed to a crusher. After the tops and cases are crushed, they are separated into three fractions (plastic, hard rubber, and lead bearing material) by "sink-float" in a heavy media liquid. This process constitutes substantial material processing and produces end-products which are directly in lead manufacturing processes.

Of the fractions recovered, the lead plates and groups are stored in the raw materials storage building. These lead plates and groups make up 70% to 90% of the raw materials used by Refined. Further reclamation takes place in the plant blast furnace where these materials are reduced to elemental lead. However, the plates and groups themselves could be and commonly are marketed without further reclamation.

- o The value of the material after it has been reclaimed.

Lead plates are a commodity. After reclamation from batteries, lead plates and groups commonly are bought and sold by secondary lead smelters. The reclaimed lead plates have a greater value than the spent batteries from which they originated. The price of lead plates and groups is controlled by the lead market, however, they retain a value regardless of fluctuation in the price of lead. A listed price for plates and groups can be found daily in the American Metal Market newspaper under the heading "Non-ferrous Scrap Lead."

- o The degree to which the initially reclaimed material is like an analogous raw material.

Lead plates are analogous to galena, the raw ore used by primary lead smelters as a raw material. Galena, or lead sulfide (PbS), is the major lead ore mined. Galena ore is concentrated during a milling process which liberates discrete grains to form a mineral concentrate containing 75% lead. A typical lead plates and groups pile will contain about 70% lead. Lead plates and groups are the principal feedstock for the secondary lead smelting industry.

Mr. Thomas E. Linson, Chief  
May 18, 1989  
Page Four

- o The extent to which an end market for the reclaimed material is guaranteed.

The existence of independent battery breakers is a clear indication that an end market for reclaimed lead plates and groups is guaranteed. Lead plates and groups are an internationally traded commodity. Also, most secondary lead smelters that break batteries on-site routinely smelt those plates and groups in their own furnaces, thereby creating their own end market for the material.

Occasionally, one smelter will "batch toll" for another smelter or sell plates and groups outright for other smelters. Clearly there exists an end market for reclaimed lead plates and groups.

- o The extent to which the reclaimed material is handled to minimize loss.

Any loss of lead from the lead plates and groups equates to lost product and lost profit. For this reason, plates and groups (recoverable lead content between 68% to 75%) are handled to minimize losses. Currently at Refined, this raw material is stored in a building with siding on a concrete slab. The building construction eliminates possible wind and rain effects that would be associated with losses to the environment.

Finally, granting a variance, from classification as a hazardous waste, for lead bearing plates and groups and the other lead bearing materials that serve as Refined Metals' raw materials would not leave the environment unprotected. EPA and IDEM have full and clear authority to regulate any spills, losses or discharges of the raw material to the environment. For example, if spent electrolyte or some of the lead bearing material escaped the process and was discharged to the land, that discharged material is a hazardous waste being "land disposed." EPA/IDEM's regulations clearly apply in this case, not to the commodity itself, but to the amount which is "disposed of." So in granting the variance, EPA/IDEM is not relinquishing any authority whatsoever to regulate the disposal of hazardous wastes.

The recycling of batteries provides a desirable service to the State of Indiana and the nation. The continued existence of the secondary lead industry is critical to ensure the safe disposal of the seventy million spent lead-acid batteries generated in the United States each year.


Mr. Thomas E. Linson, Chief  
May 18, 1989  
Page Five

Based on the foregoing information, Refined Metals respectfully requests a variance from classification as a hazardous waste for lead bearing plates and groups, future wastewater treatment plant sludge, rerun slag, "hazardous wastes" and the transportation of these materials from the initial point of storage to the raw material storage building for recycling.

Due to the nature of this project and the time constraints involved, your prompt response would be greatly appreciated. Should you have any questions or need additional information, please do not hesitate to call.

Sincerely,

REFINED METALS, INC.

  
T. William Fraudiger  
Vice President

TWF:mhm

Attachments

cc: Mr. Ron Widner  
Beech Grove Plant Manager

Robert N. Steinwurtzel, Esquire  
Andrews & Kurth

Mr. Jeff Pierce  
Lake Engineering, Inc.

Mr. Phil Perry  
Indiana Department of Environmental Management

D Zawodni



# INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

*We make Indiana a cleaner, healthier place to live*

*Evan Bayh*  
Governor

*Kathy Prosser*  
Commissioner

105 South Meridian Street  
P.O. Box 6015  
Indianapolis, Indiana 46206-6015  
Telephone 317-232-8603  
Environmental Helpline 1-800-451-6027

VIA CERTIFIED MAIL - P749-694-945

Mr. William T. Freudiger  
Refined Metals Corporation  
257 West Mallory Avenue  
Memphis, TN 38109

May 13, 1992

Dear Mr. Freudiger:

Re: Part B Permit Application  
Refined Metals Corporation  
Beech Grove, Indiana  
IND 000718130

The Indiana Department of Environmental Management acknowledges receipt of your March 6, 1989 Part B permit application to store hazardous waste at the Beech Grove, Indiana facility. This letter serves as a notice that the review of the aforementioned permit application will not commence until resolution of the following cases:

1. United States vs. Refined Metals Corporation, Civil Action No. IP902077C; and
2. Indiana Department of Environmental Management vs. Refined Metals Corporation, Cause No. N-283.

If you have any questions regarding this matter, please contact Ms. Paula Bansch at 317/232-3243.

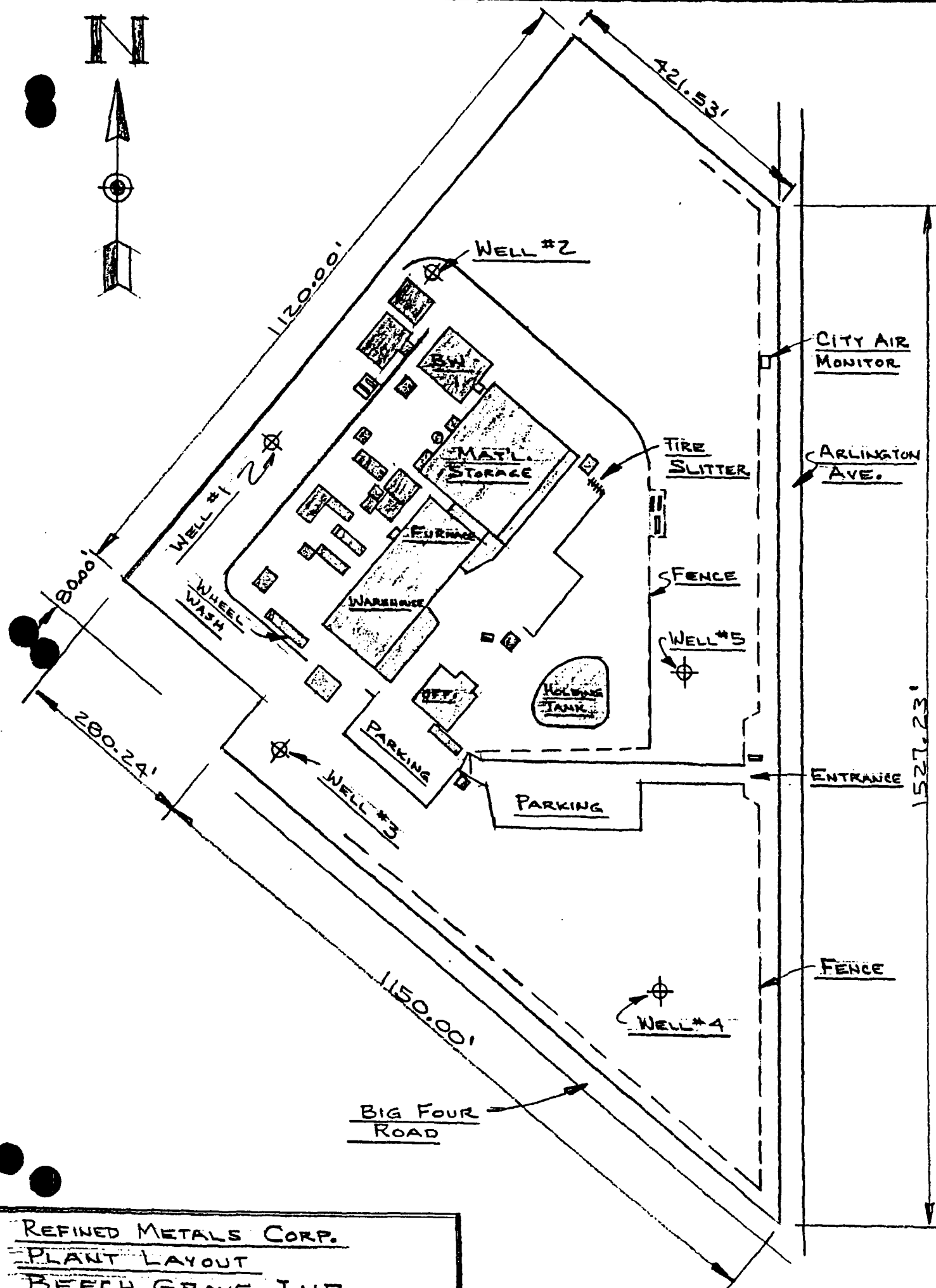
Sincerely,

Victor P. Windle, Chief  
Plan Review and Permit Section  
Hazardous Waste Management Branch  
Solid and Hazardous Waste Management

pjb

cc: Mr. Hak Cho, U.S. EPA, Region V  
Mr. Thomas Jacobs, U.S. EPA, Region V

N



REFINED METALS CORP.  
PLANT LAYOUT  
BEECH GROVE, IND.  
DWG. \*BG-92-100-1 - 1-9-92

# Refined Metals Corporation

March 6, 1989

Mr. Hak Cho, Chief  
Indiana Section  
RCRA Activities  
Part B Permit Application  
U.S. Environmental Protection Agency  
Region V  
P.O. Box A3587  
Chicago, IL 60690-3587


Dear Mr. Cho:

Attached are (2) two copies of Refined Metals, Beech Grove, Indiana Revision No. 1 of the Part B Application. Refined Metals has modified the original Part B submitted pertaining to recent changes of the facility. Revision No. 1 should supersede all previous submittals.

Six (6) copies of Revision No. 1 of the Part B Application have been submitted to the Indiana Department of Environmental Management for their review.

If you have any questions concerning Revision 1, please contact me or Jeff Pierce of Lake Engineering, Inc. at (404)-257-9634.

Sincerely,

  
T. William Freudiger  
Vice President

TWF:mhm

Attachments

250.4.5

**RECEIVED**  
MAR 21 1989  
OFFICE OF RCRA  
Waste Management Division  
U.S. EPA, REGION V



## INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

NANCY A. MALOLEY, Commissioner

105 South Meridian Street  
P.O. Box 6015  
Indianapolis 46206-6015  
Telephone 317-232-8603

VIA CERTIFIED MAIL - P395-651-542

June 30, 1988

Mr. Thomas Bingham, Plant Manager  
Refined Metals, Inc.  
P.O. Box 188  
Beech Grove, Indiana 46107

Re: Part B Permit Application  
Refined Metals, Inc.  
Beech Grove, Indiana  
IND 000718130

Dear Mr. Bingham:

Under the authority of Indiana Rule 320 IAC 4.1-34-1 and 40 CFR 270.10, this is a formal request for submittal of the Part B of the Resource Conservation and Recovery Act (RCRA) Hazardous Waste Permit Application for Refined Metals, Inc.

A RCRA Permit Application consists of two parts, a Part A and a Part B. The Part A consists of the form your company submitted on November 17, 1980, and July 3, 1985, to the U.S. Environmental Protection Agency (U.S. EPA). The Part A allowed your company to obtain "interim status," and to continue to operate the following hazardous waste management activity: S03 (waste pile), battery storage area, 200 cubic yards. On January 31, 1986, the Indiana Department of Environmental Management (IDEM) was authorized to implement the RCRA Program in lieu of the U.S. EPA. The next step in the permitting process is for your company to submit the Part B Permit Application to the IDEM and the U.S. EPA.

If your company has acted as a treatment, storage or disposal facility (TSD) of hazardous waste at any time after November 19, 1980, and does not wish to continue to do so, then a closure plan must be submitted in lieu of the Part B Permit Application. The plan must be prepared in accordance with 320 IAC 4.1-21. If you have not treated, stored, or disposed of hazardous waste at any time after November 19, 1980, you are not subject to permit requirements. Therefore, you may request in writing an Administrative Change of Status to remove your company from the TSD list.

On November 8, 1984, the Hazardous and Solid Waste Amendments of 1984 (HSWA) were signed into law. This law amended RCRA, and contains additional provisions which may affect your company. The State of Indiana has not yet been authorized to administer the hazardous waste permit requirements

Mr. Thomas Bingham  
Page 2

of HSWA. Therefore, the final permit will contain a State portion prepared by IDEM and a federal HSWA portion prepared by U.S. EPA. One important HSWA provision mandates that interim status shall terminate unless the Part B Permit Application is submitted for a determination regarding issuance of a final permit. Another provision requires corrective action for all releases of hazardous wastes or constituents from any solid waste management unit at a TSD facility seeking a permit, regardless of the time at which waste was placed in the unit. The U.S. EPA will address these and other applicable provisions of HSWA during the permit review process.

Enclosed is a copy of 320 IAC 4.1-34-5 to 35-4, which lists the requirements for submitting the Part B application. Eight (8) copies of the application must be submitted and postmarked no later than one hundred eighty (180) days after the date of receipt of this letter. The original and six (6) copies of the application must be sent to:

Mr. Thomas E. Linson, Acting Chief  
Plan Review and Permit Section  
Office of Solid and Hazardous Waste Management  
Indiana Department of Environmental Management  
105 South Meridian Street  
P.O. Box 6015  
Indianapolis, Indiana 46206-6015

The other two copies must be sent to:

RCRA Activities  
Part B Permit Application  
U. S. Environmental Protection Agency  
Region V  
P.O. Box A3587  
Chicago, Illinois 60690-3587

Attention: Mr. Hak Cho, Chief, Indiana Section

Please uniquely number each page of the application including all attachments (maps, specifications, etc.). A certification statement identical to the one stated in 320 IAC 4.1-34-2(d) and 40 CFR 270.11(d) must accompany each application and all additional submittals.

Failure to furnish a complete Part B application within the required one hundred eighty (180)-day period, and to provide in full all required information, is grounds for termination of interim status under 320 IAC 4.1-34-1 and 40 CFR 270.10.

Information submitted in the Part B Permit Application to the U.S. EPA can be disclosed to the public, according to the Freedom of Information Act and U.S. EPA Freedom of Information regulations. Information submitted to IDEM can be disclosed to the public according to Indiana's Public Records Law,



Mr. Thomas Bingham  
Page 3

IC 5-14-3. If you wish, however, you may assert a claim of business confidentiality by printing the word "confidential" on each page of the application that you believe contains confidential business information. All incoming materials containing confidential information must be sent in a double envelope--one envelope inside the other. The inner envelope is to be addressed to the Docket Control Officer (DCO) with the following instructions: "To be opened only by the DCO."

The IDEM and U.S. EPA will review business confidentiality claims under 320 IAC 6-1 (enclosed) and 40 CFR Part 2, respectively, and may later request substantiation of such claims. Please review these rules carefully before making a claim. If you claim parts of your application as confidential, also provide a public information copy of the application. The public information copy must be identical to the full application excluding the confidential information.

Also enclosed is a copy of 320 IAC 4.1-41 through 49, 55, and 56 (rules promulgated prior to the enactment of HSWA) and 40 CFR 264.73(b)(3), (9), (11), (12); 90(a)(1); 101, 190 through 199 and 40 CFR 270.14(d)(3); and 16 which includes technical standards for the operation of TSD facilities. These standards, and the appropriate HSWA standards, will become applicable to your facility upon issuance of a final permit by IDEM and U.S. EPA. A copy of our "Part B Completeness Checklist" is also enclosed; it will assist you in preparing a comprehensive and complete permit application.

The IDEM and the U.S. EPA are committed to jointly conducting the permitting process as efficiently as possible, and will strive for the simultaneous issuance of the Federal and State portions of the final RCRA permit. I suggest you contact Mr. John Hale of this office at AC 317/232-3220 as you begin preparing your application.

Sincerely,



Jane Magee  
Assistant Commissioner for  
Solid and Hazardous Waste Management

JSH/sac

Enclosures: 320 IAC 4.1-34, 35, 41 through 49, 55, 56 and  
40 CFR Part 264.73(b)(3), (9), (11), (12); 90(a)(1);  
101, 190 through 199, and 40 CFR 270.14(d)(3); and 16  
320 IAC 6-1  
Part B Completeness Checklist

cc: Marion County Health Department  
Mr. Hak Cho, U.S. EPA, Region V  
Mr. Bernie Orenstein, U.S. EPA, Region V

FILE

Gary



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

105 South Meridian Street  
P.O. Box 6015  
Indianapolis 46206-6015  
Telephone 317-232-8603

VIA CERTIFIED MAIL - P652-575-130

Mr. T. William Freudiger, Vice President  
Refined Metals Corporation  
P.O. Box 9009  
Memphis, Tennessee 38109

April 21, 1989

RE: Part B Application  
Refined Metals Corporation  
Beech Grove, Indiana  
IND 000718130

Dear Mr. Freudiger:

*Refined Metals Corp.  
Beech Grove, IND*

The Indiana Department of Environmental Management (IDEM) has received Revision No. 1 of your RCRA Part B Permit Application, dated March 6, 1989. The permit application has been reviewed for completeness and determined to be inadequate pursuant to 329 IAC 3.

The application did not address the waste piles nor did it contain an exemption request from the waste pile requirements. These requirements include leachate collection and ground water monitoring systems (329 IAC 3-34-9, 3-45-1). In order to process your application, the requested information must be submitted, in full, as an amended Part B. If the information requested is not submitted, your permit may be denied (329 IAC 3-39-3).

The completed Part B must be received by this office within thirty (30) days from the date of receipt of this letter.

If you have any questions concerning this matter, please contact Mr. Phil Perry at AC 317/232-3220.

Very truly yours,

Thomas E. Linson, Chief  
Plan Review and Permit Section  
Hazardous Waste Management Branch  
Solid and Hazardous Waste Management

*my file*  
cc: Mr. Hak Cho, U.S. EPA, Region V  
Ms. Fay Wright, U.S. EPA, Region V  
Marion County Health Department  
Mr. Dennis Zawodni  
Mr. Jim Hunt

130-16

An Equal Opportunity Employer

RECEIVED  
APR 25 1989  
OFFICE OF RCRA  
Waste Management Division  
U.S. EPA, REGION V

Sept 88 Entacement did some sampling  
around pond

1] SOI

2] Surface Improvement

② GW data? Not yet!



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

NANCY A. MALOLEY, Commissioner

105 South Meridian Street  
P.O. Box 6015  
Indianapolis 46206-6015  
Telephone 317-232-8603

VIA CERTIFIED MAIL - P652-575-165

April 7, 1989

Mr. T. William Freudiger, Vice President  
Refined Metals Corporation  
P.O. Box 9009  
Memphis, Tennessee 38109

Re: Interim Status Expansion Request  
Refined Metals Corporation  
Beech Grove, Indiana  
IND 000718130

Dear Mr. Freudiger:

On January 23, 1989, our office received your letter requesting that Refined Metal's Part A permit application be updated to increase your battery storage capacity from two hundred (200) cubic yards to four hundred (400) cubic yards.

In our original correspondence dated January 5, 1989, it was recommended that the capacity increase request be addressed through a modification to your Part B permit application. This was intended only as a recommendation and not as a denial of your request. Indiana Hazardous Waste Rule 329 IAC 3-38-3(b) states "increases in the design capacity of processes used at a facility may be made if the owner or operator submits a revised Part A permit application." Section 3(b) also includes the requirement for justification explaining the need for change and describing the lack of available treatment, storage, recovery or disposal capacity at other hazardous waste management facilities.

In both letters received from Refined Metals, no justification or demonstration of the lack of other hazardous waste management facilities was made. Since your request for increased storage capacity indicated that no changes or reconstruction to the facility will be required, no further discussion on this particular matter will be required pursuant to 329 IAC 3-38-3(e). In order to address the above issues, please submit substantial documentation to this office within fifteen (15) days from receipt of this letter. Failure to submit necessary documentation will result in the denial of your request.

If you have any questions regarding this matter, please contact Mr. Phil Perry at AC 317/232-3220.

Very truly yours,



Thomas E. Linson, Chief  
Plan Review and Permit Section  
Hazardous Waste Management Branch  
Solid and Hazardous Waste Management

PP/jlw

cc: Mr. Hak Cho, U.S. EPA, Region V  
Ms. Fay Wright, U.S. EPA, Region V